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REMARKS

Claims 1-7, 9-11, 13-23, 25, 27-31, 33-44, 46, 49, 50, 53-55, 60-66, 68, 69, 73, 76, 78, 80, 82-86, 88-99, 101-103 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Claims 1-5, 9-11, 13-23, 25, 27-31, 33, 34, 37-42, 46, 49, 50 and 53-55 have been rejected as under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,101,142 to McCoy et al. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim*." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon the prior art. *In re Sun*, 31 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicant respectfully asserts that the Examiner has not yet met his burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Claim 1 defines a draw bar and universal mount for a trailer hitch comprising a base plate including a first section, a second section and at least two rows of apertures. The draw bar and universal mount also includes a shank including a first portion, a second portion and a central portion, with the central portion connecting the first portion and the second portion. The shank includes at least one opening, the shank further including one end disposed on the base plate. The base plate and shank are fabricated from an integral, continuous piece of material. The at least two rows of apertures comprise a first row of first apertures and a second row of second apertures, with the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 1. Specifically, the McCoy et al. '142 patent does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, with the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

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Accordingly, claim 1 is in condition for allowance. Furthermore, claims 2-7, 9-11 and 13-22 depend from claim 1, and since claim 1 defines unobvious patentable subject matter, claims 2-7, 9-11 and 13-22 define patentable subject matter. Accordingly, claims 1-7, 9-11 and 13-22 are in condition for allowance.

Claim 23 defines a draw bar and universal mount for a trailer hitch comprising a base plate and a shank. The base plate includes a first section and a second section and at least two rows of apertures. The shank extends from the base plate and includes at least one opening, a first strengthening member connecting the first section of the base plate to the first portion of the shank and a second strengthening member connecting the second section of the base plate with the second portion of the shank. The at least two rows of apertures comprises a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 23. Specifically, the McCoy et al. '142 patent does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures. Accordingly, claim 23 is in condition for allowance. Furthermore, claims 25, 27-31 and 33-36 depend from claim 23, and since claim 23 defines unobvious patentable subject matter, claims 2-25, 27-31 and 33-36 define patentable subject matter. Accordingly, claims 23, 25, 27-31 and 33-36 are in condition for allowance.

Claim 37 defines a draw bar and universal mount for a trailer hitch comprising a base plate and a shank. The base plate includes a first section, a second section and at least two rows of apertures. The shank includes one end disposed on the base plate. The shank further includes a first portion, a second portion and a central portion. At least a section of the shank has an I-shaped cross section, with the central portion connecting the first portion and the second portion to form the I-shaped cross section. The shank includes at least one opening. The at least two rows of apertures comprises a first row of first apertures and a second row of

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second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 37. Specifically, the McCoy et al. '142 patent does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures. Accordingly, claim 37 is in condition for allowance. Furthermore, claims 38-44, 46, 49, 50 and 53-55 depend from claim 37, and since claim 37 defines unobvious patentable subject matter, claims 38-44, 46, 49, 50 and 53-55 define patentable subject matter. Accordingly, claims 37-44, 46, 49, 50 and 53-55 are in condition for allowance.

Claims 6, 7, 35, 36, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the McCoy et al. '142 patent in view of U.S. Patent No. 6,394,734 to Landoll et al. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

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In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

Claims 6 and 7 depend from claim 1, claims 35 and 36 depend from claim 23 and claims 43 and 44 depend from claim 37, and since claims 1, 23 and 37 define unobvious patentable subject matter as discussed above, claims 6, 7, 35, 36, 43 and 44 define patentable subject matter. Accordingly, claims 6, 7, 35, 36, 43 and 44 are in condition for allowance.

Claims 60-64, 68, 69, 73, 76, 78, 80, 82, 83, 86, 88-97 and 101-103 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the McCoy et al. '102 patent in view of U.S. Patent No. 6,139,043 to Gries. The standard for rejecting a claim as being obvious is outlined above.

Claim 60 defines a draw bar mounting assembly for a trailer hitch comprising a base plate, a shank and a pintle hook. The base plate includes a first section, a second section and at least two rows of apertures. The shank includes a first portion, a second portion, and a central portion. The central portion connects the first portion and the second portion. The shank includes at least one opening. The shank further includes one end disposed on the base plate. The base plate and shank are fabricated from a continuous piece of material. The pintle hook is configured to be connected to the base plate. The pintle hook can be connected to the base plate using the at least two rows of apertures. The at least two rows of apertures comprises a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 60. Specifically, the McCoy et al. '142 patent, even when modified, does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such

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that a line would not be able to extend through both any one of the first apertures and any one of the second apertures. Accordingly, claim 60 is in condition for allowance. Furthermore, claims 61-66, 68, 69, 73 and 76 depend from claim 60, and since claim 60 defines unobvious patentable subject matter, claims 61-66, 68, 69, 73 and 76 define patentable subject matter. Accordingly, claims 60-66, 68, 69, 73 and 76 are in condition for allowance.

Claim 78 defines a draw bar mounting assembly for a trailer hitch comprising a base plate including a first section and a second section and at least two rows of apertures, a shank including at least one opening, wherein the shank further includes one end disposed on the base plate, a first strengthening member connecting the first section of the base plate to the first portion of the shank, a second strengthening member connecting the second section of the base plate with the second portion of the shank, and a pintle hook configured to be connected to the base plate. The pintle hook can be connected to the base plate through the at least two rows of apertures. The at least two rows of apertures comprises a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 78. Specifically, the McCoy et al. '142 patent, even when modified, does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures. Accordingly, claim 78 is in condition for allowance. Furthermore, claims 80, 82-86 and 88-91 depend from claim 78, and since claim 78 defines unobvious patentable subject matter, claims 80, 82-86 and 88-91 define patentable subject matter. Accordingly, claims 78, 80, 82-86 and 88-91 are in condition for allowance.

Claim 92 defines a draw bar mounting assembly for a trailer hitch comprising a base plate, a shank and a pintle hook. The base plate includes a first section, a second section and at least two rows of apertures. The shank includes a first portion, second portion, and central portion. The central portion connects the first portion and the second portion. The first

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portion and the second portion are at least partially longer in one direction than the central portion in the one direction. The shank includes at least one opening. The shank further includes one end disposed on the base plate. The pintle hook is configured to be connected to the base plate. The pintle hook can be connected to the base plate through the at least two rows of apertures. The at least two rows of apertures comprises a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures.

The prior art of record does not disclose or suggest the above noted features of claim 92. Specifically, the McCoy et al. '142 patent, even when modified, does not disclose or suggest at least two rows of apertures comprising a first row of first apertures and a second row of second apertures, the first apertures not being co-linear with the second apertures such that a line would not be able to extend through both any one of the first apertures and any one of the second apertures. Accordingly, claim 92 is in condition for allowance. Furthermore, claims 93-99 and 101-103 depend from claim 92, and since claim 92 defines unobvious patentable subject matter, claims 93-99 and 101-103 define patentable subject matter. Accordingly, claims 92-94 and 101-103 are in condition for allowance.

Claims 65, 66, 84, 85, 98 and 99 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the McCoy et al. '142 patent in view of the Gries et al. '043 patent and the Landoll et al. '734 patent. The standard for rejecting a claim as being obvious is outlined above.

Claims 65 and 66 depend from claim 60, claims 84 and 85 depend from claim 78 and claims 98 and 99 depend from claim 92. Since claims 60, 78 and 92 define unobvious patentable subject matter as discussed above, claims 65, 66, 84, 85, 98 and 99 define patentable subject matter. Accordingly, claims 65, 66, 84, 85, 88 and 99 are in condition for allowance.

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All pending claims 1-7, 9-11, 13-23, 25, 27-31, 33-44, 46, 49, 50, 53-55, 60-66, 68, 69, 73, 76, 78, 80, 82-86, 88-99, 101-103 are believed to be in condition for allowance and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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Date

BEA/msj


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